IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 640(S/S)2007

H.Q. 41446 Rajeev Kumar S/o Ram Krishan,
R/o village Sheora, Tehsil Dhampur, Bijnore,
Residing in the Campus of 31st Battalion,
P.A.C. Rudrapur, U.S. Nagar. ----Petitioner.

Vs.

1. State of Uttarakhand through Secretary (Home), Dehradun, Uttarakhand,
2. Inspector General of Police, (P.A.C.), Uttarakhand, Head Quarter at Dehradun,
3. Commandant 31st Battalion P.A.C., Rudrapur, U.S.Nagar,
4. Inspector General of Police (P.A.C.), Uttar Pradesh, Headquarter at Lucknow,
5. Member Secretary-State Advisory Committee & Secretary Govt. of Uttar Pradesh,
6. Union of India, through its Chairman, Central State Advisory Committee, Gate no. 31, Jawahar Lal Nehru Stadium, Lodhi Road, New Delhi,
7. Union of India through Secretary, Minister of Personnel, Public Grievance and Pensions, (Deptt. of Personnel and Training), Govt. of India, Lok Nayak Bhawan, IIIrd Floor, Khan Market, New Delhi. ----Respondents.

Sri B.S. Adhikari, learned Counsel for the petitioner.
Sri Paresh Tripathi, learned Standing Counsel for the State of Uttarakhand.
Smt. Anjali Bhargava, learned Standing Counsel for Union of India, and
Smt. Beena Pandey, learned Standing Counsel for State of U.P.

Hon'ble M.M. Ghildiyal, J.

Heard Sri B.S. Adhikari, learned Counsel for the petitioner, Sri Paresh Tripathi, learned Standing Counsel for State of Uttarakhand, Smt. Anjali Bhargava, learned Standing Counsel for Union of India, and Smt. Beena Pandey, learned Standing Counsel for State of U.P.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. A writ, order or direction in the nature of certiorari for quashing the transfer order no. PAC/o1/160 (Uttaranchal) 2001 dated 18.08.2001 passed by respondent no. 4 and order no. DG-1-117(9) 2002 (3) dt. 17.03.2005 as well as order no. DG-7-1/117(9)/2002 930 dt. 29.05.2007 passed by respondents by calling them from the respondents as these are not served on the petitioner,

ii. A writ, order or direction in the nature of certiorari for quashing the consequential order dated 9.5.2007 (annexure-4) and the order dt. 2.6.2007 (annexure-8) passed by respondent no. 3,

ii.A.A writ, order or direction in the nature of mandamus directing the respondents to consider the claim of the petitioner for incorporating his name in the Final Allocation List published for State of Uttarakhand,

iii. To pass any other order or direction which this Hon'ble Court deems fit and proper under the circumstances of the case,

iv. To award cost throughout.

Brief facts of the case are that the petitioner is a permanent resident of State of Uttar Pradesh. While he was working as Constable in 31st Battalion P.A.C., Rudrapur, at the time of bifurcation of the then State of Uttar Pradesh and prior to creation of State of Uttarakhand, he opted for State of Uttarakhand. On 6th April 2001 the Police Headquarter, Dehradun called for information from all the S.S.Ps. and the Commandants of Battalions of P.A.Cs. situated in the State of

Uttarakhand to send a list of those employees who have opted for State of U.P. After receipt of required information, the optees were directed to be relived for State of U.P. Consequently, the petitioner was also directed to be relieved from State of Uttarakhand and to join in 9th Battalion P.A.C., Moradabad. The petitioner objected the direction as he had opted for State of Uttarakhand consequently, the Commandant, 31st Bn., P.A.C. realizing his mistake and clarifying the position sent a letter to the Dy. Inspector General of Police (Establishment) Police headquarter, Dehradun that in pursuance of the order of Police Headquarter dated 6th April 2001, the name of the petitioner was, by mistake, included in the list of optees for State of U.P. and, as such, the transfer of petitioner to 9th Bn., P.A.C. Moradabad may be cancelled. Alongwith his letter, he also annexed the photocopy of option submitted by the petitioner prior to creation of State of Uttarakhand.

Now, the Union of India, on the basis of wrong information supplied by State of Uttarakhand as stated by the Commandant 31st Bn. P.A.C., Rudrapur, U.S. Nagar, vide its letter dated 11th February 2004 has finally allocated the petitioner to State of U.P. and in pursuance of that final allocation list, the petitioner has been relieved by State of Uttarakhand for State of U.P.

In these circumstances, I deem it fit and proper to direct the petitioner to make a representation before the Secretary, State Advisory Committee, 7th floor, Vikas Bhawan, Secretariat, Lucknow within a period of two weeks from today and the Secretary, State Advisory Committee-Lucknow is directed to take decision on the representation of the petitioner, if moved,

within a period of four weeks from the date of production of representation before him.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

July 18, 2007:
NCM: